

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6217 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RATIBHAI Z MACHHI

Versus

CONSERVATOR OF FORESTS

Appearance:

MR NK MAJMUDAR for Petitioner

None present for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/02/98

ORAL JUDGEMENT

Heard the learned counsel for the petitioner.

2. Challenge has been made by the petitioner by this special civil application to the order of the Gujarat Civil Services Tribunal at Ahmedabad dated 8-7-1986 passed in Appeal No.299/85 under which the appeal of the petitioner in the disciplinary matter has been dismissed.

3. The learned counsel for the petitioner contended that the disciplinary authority, appellate authority as well as the Tribunal have committed serious illegality in holding the petitioner guilty of charges of illegal cutting of trees. Next submission has been made that taking into consideration the totality of the facts of this case, the penalty which has been given to the petitioner in the present case is highly excessive and disproportionate to the guilt. The disciplinary authority has given the penalty to the petitioner of his reversion to the post of Beat Guard for a period of three years, which penalty was substituted by the appellate authority by the penalty of reduction of two stages with future effect for a period of five years in the pay scale of Forester. Still the petitioner was not satisfied with this penalty and he approached to the Tribunal and the Tribunal rejected the appeal.

4. The first contention of the learned counsel for the petitioner is devoid of any substance. The Tribunal has taken into consideration the very admission of the petitioner regarding his misconduct, which he himself recorded in his own diary on 25th March, 1983. Further material has been taken into consideration, that is the statement of the petitioner written in his own handwriting in the presence of Assistant Conservator of Forests on 2-4-1983 wherein he has admitted that no markings were done and further that no written permission was obtained before he instructed the Beat Guard, Dadhwada to cut the dried sag trees. He further admitted that he has not issued the transport pass to the Bodiguard though he had orally instructed him to transport the timber to Khedpur Depot by truck No. GRV 5078.

5. On the basis of this material, the Gujarat Civil Services Tribunal has held that the conclusions to which the disciplinary authority as well as the appellate authority have reached regarding the illicit cutting of trees and unauthorised transport of the timber and abusing his office by the petitioner is proper and justified. These are the findings of fact recorded on the basis of material, which has been produced on record and I do not find any perversity therein, which calls for any interference of this Court in the order of the Tribunal sitting under Article 227 of the Constitution.

6. So far as the second contention of the learned counsel for the petitioner is concerned, it is suffice to say that illegal cutting of the trees is a normal feature, and the vanishing of forests' deposits in the

country is as a result of the aforesaid illegal cutting of the trees. Illegal cutting of the trees has to be taken more seriously where it is at the instance of none other than the Forester. Forester is the person who is posted in the Forest to see that there is no illegal cutting of the trees. To preserve the Forests' Deposits, the Foresters are being posted but in case the Foresters themselves start to illegally cut the trees then it becomes a more serious matter. Looking to the fact that the petitioner is the person, who is responsible for illegal cutting of the trees, the penalty which has been given to him is toward the lesser side. Where any of the officer of the Forest department is found to be guilty of illegal cutting of trees from the forest, the matter should have been dealt with severely and no leniency should have been shown in the matter. However, in the departmental appeal, the penalty given to the petitioner by the disciplinary authority has been reduced and no further indulgence in this respect has rightly been not shown by the Tribunal. I do not find the penalty given to the petitioner, in the facts of the present case, to be disproportionate or excessive.

7. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

zgs/-